

No. 21-1511

IN THE SUPREME COURT OF THE UNITED STATES

DAX ELLIOT CARPENTER,

Petitioner,

v

JULIE ELIZABETH CARPENTER,

Respondent.

RESPONDENT'S APPENDIX

Lawrence J. Emery, Counsel of Record
Lawrence J. Emery, P.C.
Attorney for Respondent
924 Centennial Way, Suite 470
Lansing, MI 48917
(517) 337-4866
ljemery@prodigy.net

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Respondent's Appendix A - Trial Transcript 5-5-2017 pp 10-11

1 proceed, I guess?

2 MR. EMERY: I think it's a show cause, so he
3 has to show cause why he shouldn't be found in contempt.

4 THE REFEREE: Well, you've got to make a prima
5 facie case of what he's allegedly done. I mean,
6 basically, it's your motion, I suspect.

7 MR. EMERY: Alright, then I'll put him on the
8 stand.

9 THE REFEREE: Come right up here, sir. And
10 you're Dax Carpenter, is that correct?

11 MR. CARPENTER: Yes, sir.

12 THE REFEREE: Raise your right hand, please.
13 Do you swear to tell the whole truth and nothing but the
14 truth?

15 MR. CARPENTER: Yes, sir.

16 DAX CARPENTER
17 at 3:47 p.m., sworn as a witness; testified as follows:

18 THE REFEREE: Go right ahead.

19 DIRECT EXAMINATION

20 BY MR. EMERY:

21 Q Mr. Carpenter, when did you enlist in the service?

22 A Sorry?

23 Q When did you enlist in the service?

24 A April of 2010.

25 Q 2007?

1 A 10.

2 Q 10? 2010, okay, thank you. And did you enlist for a
3 number of years?

4 A Four.

5 Q Did you receive an enlistment bonus?

6 A No.

7 Q And you were discharged from the service in what year?

8 A 2012.

9 Q That was less than your commitment. You received an
10 honorable discharge, correct?

11 A Correct.

12 Q And you received a discharge, in part, because of hardship
13 due to a disability that you suffered while in the
14 service, is that correct?

15 A Yes.

16 Q And . . . after that, then you were released, and what - -
17 what was the - - what year - - what month of 2012, do you
18 remember?

19 A My release date from the military was September 24th, 2012.

20 Q Okay. And did you - - after your release, did you obtain
21 employment somewhere?

22 A Part-time, locally.

23 Q Okay. And was that driving a bus? I think you - - or was
24 there another job?

25 A There was two before Starforce.

Respondent's Appendix B - Uniform Child Support Orders - 3

FILE

Approved, SCAO

Original - Court
1st copy - Plaintiff

2nd copy - Defendant
3rd copy - Friend of the court

| | | | | |
|---------------|---|---|--|-----------------------|
| 56th Eaton | STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 1) | | CASE NO. 08-929-DM |
| | | <input type="checkbox"/> EX PARTE <input checked="" type="checkbox"/> MODIFICATION | <input type="checkbox"/> TEMPORARY <input type="checkbox"/> FINAL | |

Court address: 1045 Independence Blvd., Charlotte, MI 48813
Court telephone no.: (517) 543-7500

| | | |
|--|---|--|
| Plaintiff's name, address, and telephone no. Dax Elliot Carpenter Dax Elliot Carpenter 7196 E. Saginaw Hwy. Grand Ledge, MI 4883 517-802-1195 | v | Defendant's name, address, and telephone no. Julie Elizabeth Carpenter Julie Elizabeth Carpenter 1021 Montevideo Lansing, MI 48917 517-332-4096 |
| Plaintiff's attorney name, bar no., address, and telephone no. Joel Mendoza 3432 N. Martin Luther King Blvd. Lansing, MI 48906 (517) 862-8023 | | Defendant's attorney name, bar no., address, and telephone no. Lawrence J. Emery (P23263) 924 Centennial Way, Suite 470 Lansing, MI 48917 517-337-4866 |
| Plaintiff's source of income name, address, and telephone no. | | Defendant's source of income name, address, and telephone no. |

This order is entered ☐ after hearing. ☐ after statutory review. ☒ on stipulation/consent of the parties.

☐ The friend of the court recommends support be ordered as follows.

☐ If you disagree with this recommendation, you must file a written objection with _____ on or before **21 days** from the date this order is mailed. If you do not object, this proposed order will be presented to the court for entry.

☒ Attached are the calculations pursuant to MCL 552.505(1)(h) and MCL 552.517b.

IT IS ORDERED, UNLESS OTHERWISE ORDERED in item 15: ☒ Standard provisions have been modified (see item 15).

- The support obligation for a child continues through the end of the month of the later: 1) the child's 18th birthday, or 2) the last day of regularly attending high school full time with the reasonable expectation of graduating, as long as the child is residing full time with the recipient of support or at an institution, but under no circumstances shall the support obligation continue after the month that the child reaches age 19 1/2. Child care for a child continues through August 31 following that child's 12th birthday. The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the change ends those expenses.
- Income withholding takes immediate effect. Payments shall be made through the Michigan State Disbursement Unit unless otherwise ordered in item 15.
- Child Support.** The payer is ordered to pay a monthly child-support obligation as follows.

| | | | | | |
|--|-------------------------------------|---------------------------------------|------------|------------|--------------------|
| Payer: Dax Elliot Carpenter | Payee: Julie Elizabeth Carpenter | Support effective date: 05/16/2013 | | | |
| Children's names, birth dates, and annual overnights with payer: Nicholas Allen Carpenter, 9-29-2007, 70 overnights | | | | | |
| Children supported: | 1 child | 2 children | 3 children | 4 children | 5 or more children |
| Base support: (includes support plus or minus premium adjustment for health-care insurance) | | | | | |
| Support: | \$ 87.00 | \$ 82.00 | \$ | \$ | \$ |
| Premium adjust. | \$ 47.00 | \$ 47.00 | \$ | \$ | \$ |
| Subtotal: | \$ 134.00 | \$ 129.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| Ordinary medical: | \$ 6.00 | \$ 12.00 | \$ | \$ | \$ |
| Child care: | \$ 27.00 | \$ 27.00 | \$ | \$ | \$ |
| Other: | \$ | \$ | \$ | \$ | \$ |
| SS benefit credit: | \$ | \$ | \$ | \$ | \$ |
| Total: | \$ 167.00 | \$ 168.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |

(See page 2 for the remainder of the order.)

| | | |
|---|--|---|
| 56th Eaton STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 2) <input type="checkbox"/> EX PARTE <input type="checkbox"/> TEMPORARY <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> FINAL | CASE NO. 08-929-DM |
| Court address 1045 Independence Blvd., Charlotte, MI 48813 | | Court telephone no. (517) 543-7500 |
| Plaintiff's name Dax Elliot Carpenter | v | Defendant's name Julie Elizabeth Carpenter |

3. Child Support (continued).

☒ Support was reduced because payer's income was reduced.

4. **Insurance.** For the benefit of the children, the ☒ plaintiff ☒ defendant shall maintain health-care coverage through an insurer (as defined in MCL 552.602) that includes payment for hospital, dental, optical, and other health-care expenses when that coverage is available at a reasonable cost, including coverage available as a benefit of employment or under an individual policy
☐ up to a maximum of \$_____ for plaintiff. ☐ up to a maximum of \$_____ for defendant.
☒ not to exceed 5% of the plaintiff's/defendant's gross income.
5. **Uninsured Health-Care Expenses.** All uninsured health-care expenses exceeding the annual ordinary medical amount will be paid 25 % by the plaintiff and 75 % by the defendant. Uninsured expenses exceeding the annual ordinary medical amount for the year they are incurred that are not paid within 28 days of a written payment request may be enforced by the friend of the court. The annual ordinary medical amount is \$375.00 for one child and \$715.00 for two children.
6. **Qualified Medical Support Order.** This order is a qualified medical support order with immediate effect pursuant to 29 USC 1169. To qualify this order, the friend of the court shall issue a notice to enroll pursuant to MCL 552.626b. A parent may contest the notice by requesting a review or hearing concerning availability of health care at a reasonable cost.
7. **Retroactive Modification, Surcharge for Past-Due Support, and Liens for Unpaid Support.** Except as provided by MCL 552.603, support is a judgment the date it is due and is not modifiable retroactively. A surcharge may be added to past-due support. Unpaid support is a lien by operation of law and the payer's property can be encumbered or seized if an arrearage accrues in an amount greater than the periodic support payments payable for two months under the payer's support order.
8. **Address, Employment Status, Health Insurance.** Both parties shall notify the friend of the court in writing of: a) their mailing and residential addresses and telephone numbers; b) the names, addresses, and telephone numbers of their sources of income; c) their health-maintenance or insurance companies, insurance coverage, persons insured, or contract numbers; d) their occupational or drivers' licenses; and e) their social security numbers unless exempt by law pursuant to MCL 552.603. Both parties shall notify the friend of the court in writing within 21 days of any change in this information. Failure to do so may result in a fee being imposed.
9. **Foster-Care Assignment.** When a child is placed in foster care, that child's support is assigned to the Department of Human Services while under the state's jurisdiction and to the funding county while placed in a county-funded program.
10. **Redirection and Abatement.** Subject to statutory procedures, the friend of the court : 1) may redirect support paid for a child to the person who is legally responsible for that child, or 2) shall abate support charges for a child who resides on a full-time basis with the payer of support.
11. **Fees.** The payer of support shall pay statutory and service fees as required by law.
12. **Review.** Each party to a support order may submit a written request to have the friend of the court review the order. The friend of the court is not required to act on more than one request received from a party each 36 months. A party may also file a motion to modify this support order.

(See page 3 for the remainder of the order.)

Approved, SCAO

Original - Court
1st copy - Plaintiff2nd copy - Defendant
3rd copy - Friend of the court

| | | |
|--|--|--|
| STATE OF MICHIGAN 56th JUDICIAL CIRCUIT Eaton COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 3) <input type="checkbox"/> EX PARTE <input type="checkbox"/> TEMPORARY <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> FINAL | CASE NO. 08-929-DM |
| Court address 1045 Independence Blvd., Charlotte, MI 48813 | | Court telephone no. (517) 543-7500 |
| Plaintiff's name | v | Defendant's name |

13. **Prior Orders.** This order supersedes all prior child-support orders and all continuing provisions are restated in this order. Past-due amounts owed under any prior support order are preserved and paid at the rate calculated using the arrearage guideline in the Michigan Child Support Formula.

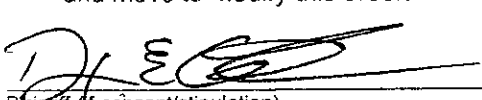
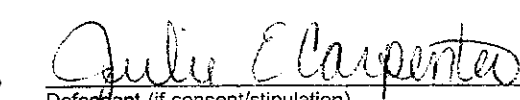
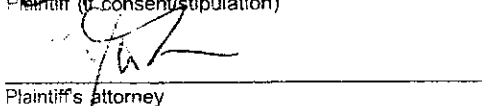
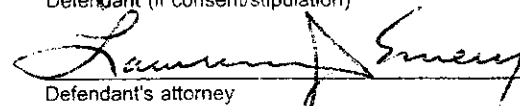
14. **Deviation.** The support provisions ordered ☒ do ☐ do not follow the child-support formula. (If there is a deviation, state the amount and reasons for deviation in item 15.)

☒ 15. **Other: (Attach separate sheets as needed.)**

a. Defendant reserves the right to petition to modify this order retroactively should it be determined that Plaintiff receives or is granted veteran's benefits that could have been included in his income under the child support formula and/or veteran's benefits that could be apportioned as child support.

b. The support calculations that are the basis for this order are based on Plaintiff's partial disability. Plaintiff is scheduled to have his disability re-evaluated on 10/25/2013 at Veteran's Medical Facility in Battle Creek, Michigan. Accordingly, Plaintiff shall provide the results of that re-evaluation, in writing, to Defendant's counsel and to the Eaton County Friend of the Court no later than 10/29/2013. Should the status of Plaintiff's partial disability be reduced and/or be eliminated, then the amount of support under this order shall be reviewed and revised retroactive to the effective date of the change in Plaintiff's disability status.

c. Defendant shall have the right to conduct discovery related to Plaintiff's claimed disability and/or income or benefits and move to modify this order.

| | | | |
|--|------------------|--|------------------|
|  | 11/5/13 Date |  | 11-25-13 Date |
|  | 11/12/13 Date |  | 11-25-13 Date |

Prepared by: Lawrence J. Emery
Name (type or print)

Date _____ Judge _____ Bar no. _____

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

Date _____ Signature _____

COURT USE ONLY

FILE

Original - Court
1st copy - Plaintiff2nd copy - Defendant
3rd copy - Friend of the court

Approved, SCAO

| | | | | |
|---------------|---|---|--|-----------------------|
| 56th Eaton | STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 1) | | CASE NO. 08-929-DM |
| | | <input type="checkbox"/> EX PARTE <input checked="" type="checkbox"/> MODIFICATION | <input type="checkbox"/> TEMPORARY <input type="checkbox"/> FINAL | |

Court address

1045 Independence Blvd., Charlotte, MI 48813

Court telephone no.

(517) 543-7500

Plaintiff's name, address, and telephone no.

Dax Elliot Carpenter

Dax Elliot Carpenter

7196 E. Saginaw Hwy.

Grand Ledge, MI 4883

517-802-1195

Plaintiff's attorney name, bar no., address, and telephone no.

Joel Mendoza

3432 N. Martin Luther King Blvd.

Lansing, MI 48906

(517) 862-8023

Plaintiff's source of income name, address, and telephone no.

Defendant's name, address, and telephone no.

Julie Elizabeth Carpenter

Julie Elizabeth Carpenter

1021 Montevideo

Lansing, MI 48917

517-332-4096

Defendant's attorney name, bar no., address, and telephone no.

Lawrence J. Emery (P23263)

924 Centennial Way, Suite 470

Lansing, MI 48917

517-337-4866

Defendant's source of income name, address, and telephone no.

This order is entered ☐ after hearing. ☐ after statutory review. ☒ on stipulation/consent of the parties.☐ The friend of the court recommends support be ordered as follows.☐ If you disagree with this recommendation, you must file a written objection with _____ on or before **21 days** from the date this order is mailed. If you do not object, this proposed order will be presented to the court for entry.☒ Attached are the calculations pursuant to MCL 552.505(1)(h) and MCL 552.517b.**IT IS ORDERED, UNLESS OTHERWISE ORDERED in item 15:** ☒ Standard provisions have been modified (see item 15).

1. The support obligation for a child continues through the end of the month of the later: 1) the child's 18th birthday, or 2) the last day of regularly attending high school full time with the reasonable expectation of graduating, as long as the child is residing full time with the recipient of support or at an institution, but under no circumstances shall the support obligation continue after the month that the child reaches age 19 1/2. Child care for a child continues through August 31 following that child's 12th birthday. The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the change ends those expenses.

2. Income withholding takes immediate effect. Payments shall be made through the Michigan State Disbursement Unit unless otherwise ordered in item 15.

3. **Child Support.** The payer is ordered to pay a monthly child-support obligation as follows.

| | | |
|--|-------------------------------------|---------------------------------------|
| Payer: Dax Elliot Carpenter | Payee: Julie Elizabeth Carpenter | Support effective date: 04/02/2013 |
| Children's names, birth dates, and annual overnights with payer: Nicholas Allen Carpenter, 9-29-2007, 70 overnights | | |
| Christopher James Carpenter, 02/27/2004, 70 overnights | | |
| Children supported: | 1 child | 2 children |
| Base support: (includes support plus or minus premium adjustment for health-care insurance) | | |
| Support: | \$ 234.00 | \$ 277.00 |
| Premium adjust: | \$ 51.00 | \$ 51.00 |
| Subtotal: | \$ 285.00 | \$ 328.00 |
| Ordinary medical: | \$ 7.00 | \$ 15.00 |
| Child care: | \$ 34.00 | \$ 34.00 |
| Other: | \$ | \$ |
| SS benefit credit: | \$ | \$ |
| Total: | \$ 326.00 | \$ 377.00 |

(See page 2 for the remainder of the order.)

| | | |
|---|--|---|
| STATE OF MICHIGAN JUDICIAL CIRCUIT 56th Eaton COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 2) <input type="checkbox"/> EX PARTE <input type="checkbox"/> TEMPORARY <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> FINAL | CASE NO. 08-929-DM |
| Court address 1045 Independence Blvd., Charlotte, MI 48813 | | Court telephone no. (517) 543-7500 |
| Plaintiff's name Dax Elliot Carpenter | v | Defendant's name Julie Elizabeth Carpenter |

3. Child Support (continued).

- ☒ Support was reduced because payer's income was reduced.
4. **Insurance.** For the benefit of the children, the ☒ plaintiff ☒ defendant shall maintain health-care coverage through an insurer (as defined in MCL 552.602) that includes payment for hospital, dental, optical, and other health-care expenses when that coverage is available at a reasonable cost, including coverage available as a benefit of employment or under an individual policy
☐ up to a maximum of \$_____ for plaintiff. ☐ up to a maximum of \$_____ for defendant.
☒ not to exceed 5% of the plaintiff's/defendant's gross income.
5. **Uninsured Health-Care Expenses.** All uninsured health-care expenses exceeding the annual ordinary medical amount will be paid 25 % by the plaintiff and 75 % by the defendant. Uninsured expenses exceeding the annual ordinary medical amount for the year they are incurred that are not paid within 28 days of a written payment request may be enforced by the friend of the court. The annual ordinary medical amount is \$375.00 for one child and \$715.00 for two children.
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8. **Address, Employment Status, Health Insurance.** Both parties shall notify the friend of the court in writing of: a) their mailing and residential addresses and telephone numbers; b) the names, addresses, and telephone numbers of their sources of income; c) their health-maintenance or insurance companies, insurance coverage, persons insured, or contract numbers; d) their occupational or drivers' licenses; and e) their social security numbers unless exempt by law pursuant to MCL 552.603. Both parties shall notify the friend of the court in writing within 21 days of any change in this information. Failure to do so may result in a fee being imposed.
9. **Foster-Care Assignment.** When a child is placed in foster care, that child's support is assigned to the Department of Human Services while under the state's jurisdiction and to the funding county while placed in a county-funded program.
10. **Redirection and Abatement.** Subject to statutory procedures, the friend of the court: 1) may redirect support paid for a child to the person who is legally responsible for that child, or 2) shall abate support charges for a child who resides on a full-time basis with the payer of support.
11. **Fees.** The payer of support shall pay statutory and service fees as required by law.
12. **Review.** Each party to a support order may submit a written request to have the friend of the court review the order. The friend of the court is not required to act on more than one request received from a party each 36 months. A party may also file a motion to modify this support order.

(See page 3 for the remainder of the order.)

Approved, SCAO

Original - Court
1st copy - Plaintiff

2nd copy - Defendant
3rd copy - Friend of the court

| | | |
|---|--|------------------------------|
| STATE OF MICHIGAN 56th Eaton JUDICIAL CIRCUIT COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 3) <input type="checkbox"/> EX PARTE <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> TEMPORARY <input type="checkbox"/> FINAL | CASE NO. 08-929-DM |
|---|--|------------------------------|

Court address

1045 Independence Blvd., Charlotte, MI 48813

Court telephone no.

(517) 543-7500

Plaintiff's name

v

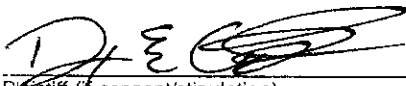
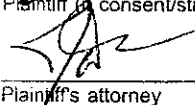
Defendant's name


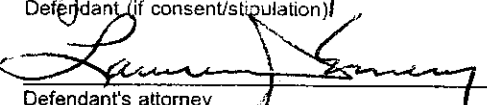
13. **Prior Orders.** This order supersedes all prior child-support orders and all continuing provisions are restated in this order. Past-due amounts owed under any prior support order are preserved and paid at the rate calculated using the arrearage guideline in the Michigan Child Support Formula.

14. **Deviation.** The support provisions ordered ☒ do ☐ do not follow the child-support formula. (If there is a deviation, state the amount and reasons for deviation in item 15.)

☒ 15. **Other: (Attach separate sheets as needed.)**

Defendant reserves the right to petition to modify this order retroactively should it be determined that Plaintiff receives or is granted veteran's benefits that could have been included in his income under the child support formula and/or veteran's benefits that could be apportioned as child support.


Plaintiff (if consent/stipulation) 11/5/13
Date

Plaintiff's attorney 11/14/13
Date


Defendant (if consent/stipulation) 11-25-13
Date

Defendant's attorney 11-25-13
Date

Prepared by: Lawrence J. Emery
Name (type or print)

Date

Judge

Bar no.

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

Date

Signature

COURT USE ONLY

Approved, SCAO

Original - Court
1st copy - Plaintiff2nd copy - Defendant
3rd copy - Friend of the court

| | | | | |
|---------------|---|---|--|---------------------------|
| 56th EATON | STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY | UNIFORM CHILD SUPPORT ORDER (PAGE 1) | | CASE NO. 08-929-DM |
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Court address

1045 Independence Blvd., Charlotte, MI 48813

Court telephone no.

(517) 483-7500

| |
|---|
| Plaintiff's name, address, and telephone no. Dax Elliot Carpenter 7196 E. Saginaw Hwy Grand Ledge, MI 48837 (517) 802-1195 |
| Plaintiff's attorney name, bar no., address, and telephone no. Joel Mendoza 3423 N. Martin Luther King Blvd. Lansing, MI 48906 (517) 862-8023 |
| Plaintiff's source of income name, address, and telephone no. WOLVERTON INC. |

v

| |
|--|
| Defendant's name, address, and telephone no. Julie E. Carpenter 1021 Montevideo Lansing, MI 48917 (517) 323-4096 |
| Defendant's attorney name, bar no., address, and telephone no. Lawrence J. Emery (P23263) 924 Centennial Way, Suite 470 Lansing, MI 48917 (517) 337-4866 |
| Defendant's source of income name, address, and telephone no. LANSING PUBLIC SCHOOLS |

This order is entered ☐ after hearing. ☒ after statutory review. ☐ on stipulation of the parties. ☒ on consent of the parties.

The friend of the court recommends support be ordered as follows.

If you disagree with this recommendation, you must file a written objection with _____ on or before **21 days** from the date this order is mailed. If you do not object, this proposed order will be presented to the court for entry.

☒ Attached are the calculations pursuant to MCL 552.505(1)(h) and MCL 552.517b.

IT IS ORDERED, UNLESS OTHERWISE ORDERED in item 15: ☐ Standard provisions have been modified (see item 15).

1. The support obligation for a child continues through the end of the month of the later: 1) the child's 18th birthday, or 2) the last day of regularly attending high school full time with the reasonable expectation of graduating, as long as the child is residing full time with the recipient of support or at an institution, but under no circumstances shall the support obligation continue after the month that the child reaches age 19 1/2. Child care for a child continues through August 31 following that child's 12th birthday. The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the change ends those expenses.

2. Income withholding takes immediate effect. Payments shall be made through the Michigan State Disbursement Unit unless otherwise ordered in item 15.

3. **Child Support.** The payer is ordered to pay a monthly child-support obligation as follows.

| | | | | | |
|--|------------------------------|---------------------------------------|------------|------------|--------------------|
| Payer: Dax Elliot Carpenter | Payee: Julie E. Carpenter | Support effective date: 02/21/2013 | | | |
| Children's names and birth dates: Christopher James Carpenter 02/27/2004 and Nicholas Allen Carpenter 09/29/2007 | | | | | |
| Children supported: | 1 child | 2 children | 3 children | 4 children | 5 or more children |
| Base support: (includes support plus or minus premium adjustment for health-care insurance) | | | | | |
| Support: | \$ 345.00 | \$ 524.00 | \$ | \$ | \$ |
| Premium adjust: | \$ 70.00 | \$ 70.00 | \$ | \$ 0.00 | \$ |
| Subtotal: | \$ 415.00 | \$ 594.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| Ordinary medical: | \$ 10.00 | \$ 20.00 | \$ | \$ | \$ |
| Child care: | \$ 47.00 | \$ 47.00 | \$ | \$ | \$ |
| Other: | \$ 0.00 | \$ 0.00 | \$ | \$ | \$ |
| SS benefit credit: | \$ 0.00 | \$ 0.00 | \$ | \$ | \$ |
| Total: | \$ 472.00 | \$ 661.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |

(See page 2 for the remainder of the order.)

| | | |
|---|--|---|
| STATE OF MICHIGAN 56th JUDICIAL CIRCUIT EATON COUNTY Court address 1045 Independence Blvd., Charlotte, MI 48813 Plaintiff's name Dax Elliot Carpenter | UNIFORM CHILD SUPPORT ORDER (PAGE 2) <input type="checkbox"/> EX PARTE <input type="checkbox"/> TEMPORARY <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> FINAL | CASE NO. 08-929-DM Court telephone no. (517) 483-7500 Defendant's name Julie E. Carpenter |
|---|--|---|

3. Child Support (continued).

- ☒ Support was reduced because payer's income was reduced.
- ☒ Support includes a parental-time offset using 70 overnights for Dax Elliot Carpenter and 295 overnights for Julie E. Carpenter.
- Plaintiff
Defendant

- 4. Insurance.** For the benefit of the children, the ☒ plaintiff ☒ defendant shall maintain health-care coverage through an insurer (as defined in MCL 552.602) that includes payment for hospital, dental, optical, and other health-care expenses when that coverage is available at a reasonable cost, including coverage available as a benefit of employment or under an individual policy.
- ☐ up to a maximum of \$_____ for plaintiff. ☐ up to a maximum of \$_____ for defendant.
- ☒ not to exceed 5% of the plaintiff's/defendant's gross income.
- 5. Uninsured Health-Care Expenses.** All uninsured health-care expenses exceeding the annual ordinary medical amount will be paid 34 % by the plaintiff and 66 % by the defendant. Uninsured expenses exceeding the annual ordinary medical amount for the year they are incurred that are not paid within 28 days of a written payment request may be enforced by the friend of the court. The annual ordinary medical amount is \$357.00 for one child and \$715.00 for two children.
- 6. Qualified Medical Support Order.** This order is a qualified medical support order with immediate effect pursuant to 29 USC 1169. To qualify this order, the friend of the court shall issue a notice to enroll pursuant to MCL 552.626b. A parent may contest the notice by requesting a review or hearing concerning availability of health care at a reasonable cost.
- 7. Retroactive Modification, Surcharge for Past-Due Support, and Liens for Unpaid Support.** Except as provided by MCL 552.603, support is a judgment the date it is due and is not modifiable retroactively. A surcharge may be added to past-due support. Unpaid support is a lien by operation of law and the payer's property can be encumbered or seized if an arrearage accrues in an amount greater than the periodic support payments payable for two months under the payer's support order.
- 8. Address, Employment Status, Health Insurance.** Both parties shall notify the friend of the court in writing of: a) their mailing and residential addresses and telephone numbers; b) the names, addresses, and telephone numbers of their sources of income; c) their health-maintenance or insurance companies, insurance coverage, persons insured, or contract numbers; d) their occupational or drivers' licenses; and e) their social security numbers unless exempt by law pursuant to MCL 552.603. Both parties shall notify the friend of the court in writing within 21 days of any change in this information. Failure to do so may result in a fee being imposed.
- 9. Foster-Care Assignment.** When a child is placed in foster care, that child's support is assigned to the Department of Human Services while under the state's jurisdiction and to the funding county while placed in a county-funded program.
- 10. Redirection and Abatement.** Subject to statutory procedures, the friend of the court: 1) may redirect support paid for a child to the person who is legally responsible for that child, or 2) shall abate support charges for a child who resides on a full-time basis with the payer of support.
- 11. Fees.** The payer of support shall pay statutory and service fees as required by law.

(See page 3 for the remainder of the order.)

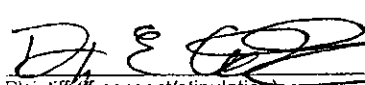
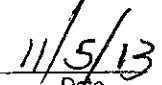

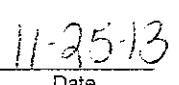
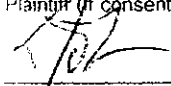
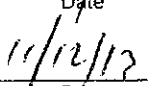
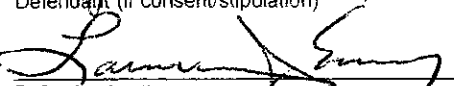
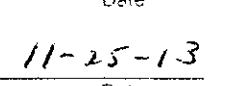
Approved, SCAO

Original - Court
1st copy - Plaintiff

2nd copy - Defendant
3rd copy - Friend of the court

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| STATE OF MICHIGAN 56th JUDICIAL CIRCUIT EATON COUNTY | | UNIFORM CHILD SUPPORT ORDER (PAGE 3) <input type="checkbox"/> EX PARTE <input type="checkbox"/> TEMPORARY <input checked="" type="checkbox"/> MODIFICATION <input type="checkbox"/> FINAL | CASE NO. 08-929-DM |
| Court address 1045 Independence Blvd., Charlotte, MI 48813 | | | Court telephone no. (517) 483-7500 |
| Plaintiff's name Dax Elliot Carpenter | | v | Defendant's name Julie E. Carpenter |

12. **Review.** Each party to a support order may submit a written request to have the friend of the court review the order. The friend of the court is not required to act on more than one request received from a party each 36 months. A party may also file a motion to modify this support order.
13. **Prior Orders.** Except as changed in this order, prior provisions remain in effect. Support payable under any prior order is preserved. Any past-due support shall be paid in the amount calculated using the Michigan Child Support Formula.
14. **Deviation.** The support provisions ordered ☒ do ☐ do not follow the child-support formula. (If there is a deviation, state the amount and reasons for deviation in item 15.)
- ☐ 15. **Other:** (Attach separate sheets as needed.)

| | | | |
|--|--|--|--|
|  Plaintiff (if consent/stipulation) |  Date 11/5/13 |  Defendant (if consent/stipulation) |  Date 11-25-13 |
|  Plaintiff's attorney |  Date 11/12/13 |  Defendant's attorney |  Date 11-25-13 |

Prepared by: Lawrence J. Emery
Name (type or print)

Date _____ Judge _____ Bar no. _____

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

Date _____ Signature _____

COURT USE ONLY

Respondent's Appendix C - Trial Transcript 5-5-2017 pp 16-19

1 to appreciate what we're doing here. And I'm just saying,
2 if he - -

3 MR. MENDOZA: I cannot give that advice.

4 THE REFEREE: I'm just saying, if he hears much
5 more to that, then I'm going to just make my own
6 determinations, and I don't think you want the Court doing
7 that.

8 MR. MENDOZA: That's - - that's fine. That's
9 fine.

10 THE REFEREE: Okay. Alright.

11 MR. MENDOZA: That's fine.

12 THE REFEREE: Alright. So - - so that I'm
13 clear, you're - - you can't tell us, or wish not to tell
14 us, when you first applied for disability benefits?

15 THE WITNESS: That's correct.

16 BY MR. EMERY:

17 Q And that question - - and again, if you need to look to
18 Mr. Mendoza to feel - - feel comfortable doing so - - my
19 next question is, when did you start - - did you start
20 receiving veteran's disability benefits.

21 A I'm also going to invoke my Fifth Amendment clause here,
22 as well, sir.

23 MR. EMERY: Okay. I'm going to have - - ask
24 that we mark this as Exhibit A.

25 THE REFEREE: Alright.

1 MR. EMERY: And I'm going to give Mr. - -
2 I've given Mr. Mendoza a copy. Here's a copy for Mr.
3 Carpenter.

4 MR. MENDOZA: I object. Why is this - - why
5 are you receiving correspondence for Mr. Carpenter?

6 THE REFEREE: Well, let's - - before you
7 object, let's first get, at least, an identification of
8 what we're looking at, and then we'll - - the date today
9 is 5/5/17. So, could, at least, Mr. Emery identify what
10 it is that you're asking about? Not the contents of it,
11 just - - just a broad description of it.

12 BY MR. EMERY:

13 Q Do you recognize this document, Mr. Carpenter?

14 A I do.

15 MR. MENDOZA: Again, I - - why is he testifying
16 to the document when I'm objecting to the document.

17 MR. EMERY: I said, "Do you recognize the
18 document."

19 MR. MENDOZA: You're asking questions about the
20 document when I am objecting to the document and its
21 illegal obtainment.

22 THE REFEREE: Alright. Why don't you, Mr.
23 Emery, tell me what the document purports to be - -

24 MR. MENDOZA: You can state what the document
25 is, but don't ask my client about it.

1 THE REFEREE: - - without Dad telling us what
2 it is or identifying it.

3 MR. EMERY: Well, this is a letter addressed
4 to Dax Elliott Carpenter, dated December 27th, 2016. It
5 was presented to the Referee, Mr. Schlossberg, and myself
6 in the presence of Mr. Mendoza, who was also here, in
7 fact, who I thought brought this document, or at least
8 offered it to the - - to the Referee at a show cause
9 hearing, because the Court requested that Mr. Carpenter
10 bring to his next show cause hearing a copy of an - - of
11 information relating to his veteran's disability benefits.
12 And this is the document he brought. This is what he
13 presented to you. There is no privilege here.

14 MR. MENDOZA: I'm sorry. I - - I thought this
15 was what you obtained from the Detroit office. I - -

16 THE REFEREE: So, we can proceed then?

17 MR. MENDOZA: Yes, we can. Sorry.

18 THE REFEREE: Okay. Go right ahead. Can you
19 identify this document? Do you recognize it?

20 THE WITNESS: Yes, sir.

21 THE REFEREE: Okay.

22 BY MR. EMERY:

23 Q Did you request that document be issued to you by somebody
24 in the veteran's benefit section?

25 A No, I did not.

1 Q How did it come to you?
2 A It came by mail.
3 Q No, I mean, how did it - - how was it - - why would they
4 write you a letter and tell you this information?
5 A I'm honestly not sure. I mean, this is . . .
6 Q Do you remember being present at a show cause hearing with
7 Mr. Schlossberg and myself in late November or early
8 December of 2016 - -
9 A Yes.
10 Q - - where you were asked at the end of the show cause
11 hearing to bring to the next show cause information
12 relating to your veteran's disability benefits?
13 A I do recall that.
14 Q Okay. And is this document the document that you brought
15 with you at the next show cause hearing, I believe, in
16 early January of 2017 in response to the referee's
17 request?
18 A Yes.
19 MR. EMERY: Okay.
20 THE REFEREE: What was the date of the show
21 cause hearing?
22 MR. EMERY: I'm not exactly sure. It was in
23 early January of 2017. The date of the letter is December
24 27th, 2016.
25 THE REFEREE: And the prior show cause was in

Respondent's Appendix D - Trial Transcript 5-5-2017 pp 20-23

1 November, as I remember, of 2016.

2 MR. EMERY: It could be.

3 THE REFEREE: Yeah. Alright.

4 BY MR. EMERY:

5 Q When you produced that record, Mr. Carpenter, you were
6 aware, were you not, that you had been receiving veteran's
7 disability benefits for some time?

8 A I'm also going to invoke my Fifth Amendment clause here,
9 as well, sir.

10 THE REFEREE: I'm sorry, could you repeat that?

11 THE WITNESS: I'm going to - - I'm invoking my
12 Fifth Amendment rights here, as well.

13 MR. EMERY: Well, I don't think there's any
14 privilege in what benefits he is receiving and when he
15 received them. That cannot be incriminating. Either he's
16 receiving the benefits or he isn't.

17 MR. MENDOZA: He just testified that he was
18 receiving the benefit as of the time and date - - that's
19 what he's invoking his - - his privilege for.

20 MR. EMERY: So, now I'm asking, "Had you been
21 receiving benefits prior to the date of this letter,
22 December 2016?"

23 MR. MENDOZA: Again, he's invoking his
24 privilege for that question.

25 MR. EMERY: You - - there's no - - there's no

1 basis for a privilege.

2 THE REFEREE: Well, I - - I could conjure up
3 some if he's committed some kind of - - I'm just - - I'm
4 not - - yeah, hypothetically, if somebody committed a
5 fraudulent act with respect to the federal government - -

6 MR. MENDOZA: Correct.

7 THE REFEREE: - - to obtain this document, or
8 to obtain benefits, and now we're asking the onset of the
9 benefits, it could be potentially incriminating - -

10 MR. MENDOZA: Yes.

11 THE REFEREE: - - if he - - if - - I'm just
12 hypothecating one scenario. I'm not - - I would say this,
13 that, while that might be immeasurably helpful to you in
14 whatever it is that you fear could come down on you, it is
15 not going to be at all helpful to you here. So, I'm just
16 making it real clear.

17 THE WITNESS: I understand, sir.

18 MR. MENDOZA: Understood. We understand.

19 THE WITNESS: I understand.

20 BY MR. EMERY:

21 Q Is it true, Mr. Carpenter, that you continue to receive
22 benefits from the Veteran's Administration in the
23 approximate amount set forth in the December 27th, 2016
24 letter?

25 A I'm also going to invoke my Fifth Amendment rights here,

1 as well.

2 MR. EMERY: Well, I - - I - -

3 MR. MENDOZA: That one you can answer.

4 THE WITNESS: That one I can answer?

5 MR. MENDOZA: Yes.

6 THE WITNESS: Okay.

7 MR. MENDOZA: Yes.

8 THE WITNESS: I am, but not that amount.

9 BY MR. EMERY:

10 Q Okay. What amount are you receiving?

11 A It has been lowered to \$3,321 - -

12 Q Okay.

13 A - - and some change.

14 THE REFEREE: \$3,321?

15 THE WITNESS: Yes, sir.

16 BY MR. EMERY:

17 Q Per month?

18 A Yes, sir.

19 THE REFEREE: You know, might I offer this

20 suggestion? If - - if it's as it appears to me, that

21 there is some real liability criminally here, and - - and

22 that's why he's invoking Fifth Amendment - - and I'm

23 giving you the benefit of the doubt that that's what it

24 is, because if it - - if it's not, it's very dismaying and

25 very stressful, legally speaking, to have that thrown out

1 if it's simply being used for some other purpose. But I'm
2 just wondering if, perhaps, maybe, we should go off the
3 record and - - and Counsel should have a real frank
4 discussion about what's going on here, so we don't have to
5 put it on the record and address that and, on the other
6 hand, get this settled. I mean, no one is out to - - at
7 least here, I'm not - - we're not out to skewer you.

8 MR. MENDOZA: Well - -

9 THE REFEREE: It's simply to find out what the
10 obligation is, your ability to pay it, and what you owe to
11 pay it. It's not to make life bad for you. And I'm
12 afraid, if we persevere here, things are going to get
13 worse, and it just seems that, maybe, if we go off the
14 record, and Counsel is straight with each other - - and I
15 don't even need to know what the background is - - we
16 could probably get this thing settled, I'm thinking.

17 MR. EMERY: And I - - are we off the record
18 right now?

19 THE REFEREE: Let's go off the record. We are
20 off the record.

21 (Off the record - 4:01 p.m.)

22 (On the record - 4:23 p.m.)

23 THE REFEREE: Go right ahead.

24 MR. EMERY: We appreciate the referee giving
25 Mr. Mendoza and I a chance to talk. I have disclosed to

Respondent's Appendix E - Trial Transcript 5-5-2017 pp 24-25

1 Mr. Mendoza what the chief counsel in the Detroit office
2 of the Veteran's Administration has provided me by way of
3 a summary of the disability benefits that Mr. Carpenter
4 received, extending back to the date, or just before the
5 date of the current support order. And he is going to, as
6 I understand it, make some petition to the Veteran's
7 Administration with regards to some allocation of those
8 benefits. I don't know for sure what he's talking about,
9 but - -

10 MR. MENDOZA: An apportionment (inaudible).

11 MR. EMERY: And if he - - if I - - Mr.
12 Mendoza's been very candid, and I'm sure that he will
13 disclose whatever they tell him, and he will - - he will
14 provide me with a copy of what he sends them.

15 MR. MENDOZA: Yes, I will.

16 MR. EMERY: And then, we'll make sure that
17 that gets to them and their determination is made. And
18 when that is available to us, then we would sit down at
19 the table to try to figure out how we can amend child
20 support retroactive to the date that the last order was
21 entered and figure out what that support would be.
22 There's going to be a substantial arrearage, and we would
23 then deal with the question of how that's to be paid.

24 It's my understanding that Mr. Mendoza and Mr.
25 Carpenter don't object to the figures that are provided in

1 that document. And I will note, again, parenthetically,
2 that some of those figures relate to the GI Bill benefits
3 that he had - - that he received, and we are not including
4 those as part of the amounts that he should have
5 disclosed.

6 So, when that's done, then we can come back and
7 not - - not in front of the Referee, necessarily, but - -
8 hopefully, Mr. Mendoza and I can work something out. And
9 then, at that point, we may be in the position, simply, to
10 dismiss, not only the contempt issue, but all issues
11 raised in that motion that I filed in front of Judge
12 Maurer.

13 The second thing I would ask is that - - we do have a
14 recommendation that has been made by your office. That
15 office - - that recommendation did not include any
16 veteran's benefits whatsoever, even currently, and it was
17 retroactive to February of this year, which - - which was
18 probably appropriate because I think that's when Mr.
19 Carpenter gained his new employment, but it's not
20 appropriate in terms of the veteran's benefits. So,
21 either we - - we would like him to start paying the
22 stepped-up support, because I think that will help him so
23 he doesn't have an even bigger arrearage. They have
24 recommended \$700, I think, per month. If he starts paying
25 that, and we just put that recommendation on hold until we

Respondent's Appendix F - Trial Exhibit 2, Trial Transcript
7-17-2017 pp 3-18



DEPARTMENT OF VETERANS AFFAIRS

July 3, 2017

DAX CARPENTER
7196 E SAGINAW HWY
GRAND LEDGE, MI 48837

In reply, refer to:
329/214/GB
File Number: 362049096
Dax CARPENTER

Dear Mr. CARPENTER:

We have discontinued action on your claim for the following condition(s)/issue(s):

- Apportionment.

We based our decision on your request dated June 10, 2017. If you did not intend to withdraw your claim for the condition(s)/issue(s) listed above, you have 30 days from the date of this letter to provide us with that information. If you notify us within 30 days, we will consider your claim filed as of the date that it was previously submitted. If you notify us after the 30 days has elapsed, you must resubmit your claim on the appropriate form, and your claim will be considered received as of the date of receipt of your complete claim.

Who Is Eligible to Apply for an Apportionment?

- an estranged spouse or an estranged spouse and child or children in the spouse's custody
- a child or children not living with the primary beneficiary and to whose support the primary beneficiary is not reasonably contributing
- dependent parent(s) in compensation cases
- dependents of an incarcerated primary beneficiary

Note (1): The *primary beneficiary* may be either the *veteran* or the *surviving spouse*.

Note (2): A *divorced* spouse is not eligible; however, he/she may receive an apportionment on behalf of the beneficiary's child or children in his/her custody.

If you are submitting a claim for compensation benefits, you must complete, sign, and return a VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits. You may also submit your claim through eBenefits. For more information regarding eBenefits, please see below.

To locate the appropriate form(s), please visit the following website: www.va.gov/vaforms.

Ex 2

File Number: 362049096
CARPENTER, DAX

What is eBenefits?

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- **Submit claims for benefits and/or upload documents directly to the VA**
- **Request to add or change your dependents**
- **Update your contact and direct deposit information and view payment history**
- **Request a Veterans Service Officer to represent you**
- **Track the status of your claim or appeal**
- **Obtain verification of military service, civil service preference, or VA benefits**
- **And much more!**

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

| Telephone | Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711. |
|------------------|--|
| Use the Internet | Send electronic inquiries through the Internet at https://iris.va.gov . |
| Write | VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached <i>Where to Send Your Written Correspondence</i> . |

In all cases, be sure to refer to your VA file number, 362049096.

If you are looking for general information about benefits and eligibility, you should visit our website at <http://www.va.gov> or search the Frequently Asked Questions (FAQs) at <http://iris.va.gov>.

Page 3

File Number: 362049096
CARPENTER, DAX

We sent a copy of this letter to your representative, MICHIGAN DEPTMT OF MILITARY AND VETERANS AFFAIRS, whom you can also contact if you have questions or need assistance.

Sincerely yours,

Regional Office Director

Enclosures: VA Form 21-4138, Statement In Support of Claim

Where to Send Your Written Correspondence

cc: MICHIGAN DEPTMT OF MILITARY AND VETERANS AFFAIRS

1 Charlotte, Michigan

2 Monday, July 17, 2017

3 THE REFEREE: Alright. It is July 17, 2017.

4 We're on the record on 08-929-DM, entitled Dax Carpenter
5 versus Julie Carpenter. I would note that counsel is
6 here, Joel Mendoza for Plaintiff Father, Larry Emery for
7 Defendant Mother. We were scheduled to be here on July
8 12, 2017, and I think counsel for Plaintiff had an issue
9 with work or the guards, and - - or his army requirements,
10 military requirements. So, we adjourned it until today,
11 and we're here.

12 And I'm just curious, did - - did the apportionment
13 letter finally be received, and is it now transmitted to
14 Mr. Emery?

15 MR. MENDOZA: It - - it has, and they did not
16 make a ruling, because Mr. Carpenter cannot request
17 apportionment for his own benefits. His dependent needs
18 to do that. So - -

19 THE REFEREE: Well, he can't go backwards on
20 it, anyway, right?

21 MR. MENDOZA: Well, we were going to - -

22 THE REFEREE: There's no question - -

23 MR. MENDOZA: Whatever would be apportioned, we
24 would consent to going back.

25 THE REFEREE: You would consent to it, but

1 would Mr. Emery consent to it?

2 MR. MENDOZA: Well, according to Mr. Emery, she
3 is not going to apply. She doesn't need to, because,
4 according to him, it's income. So . . .

5 THE REFEREE: So, we're - - so, this should be
6 pretty easy then.

7 MR. MENDOZA: Well, we're arguing - -

8 THE REFEREE: We just calculate - -

9 MR. MENDOZA: - - that it's not.

10 THE REFEREE: It's not income? On what basis?

11 MR. MENDOZA: That it's not income. Because
12 his benefits are not based on earned income.

13 THE REFEREE: It's right in the formula. It's
14 earned income. It's considered an earned income.

15 MR. MENDOZA: No.

16 THE REFEREE: Well, let me ask this. When did
17 you receive the apportionment letter?

18 MR. MENDOZA: Under - - it was - - it was dated
19 July 3rd. It came in late this week.

20 MR. CARPENTER: It came in Friday.

21 THE REFEREE: Alright. Was there any prior
22 apportionment letter?

23 MR. MENDOZA: No.

24 THE REFEREE: That you didn't like, or they - -
25 they didn't do something right, and you requested another

1 one?

2 MR. CARPENTER: My understanding was, we
3 intended to file on behalf of the Defendant.

4 THE REFEREE: So, this was the first
5 apportionment letter that came in?

6 MR. CARPENTER: Correct.

7 THE REFEREE: July 3. And was it sent to
8 you - -

9 MR. CARPENTER: Yes.

10 THE REFEREE: - - or to Mr. Mendoza? And when
11 did you receive it?

12 MR. CARPENTER: Friday. This past Friday. It
13 was dated for the third, because of the holiday, and - -

14 THE REFEREE: Alright. Here - - here's my
15 issue. Mr. Holland advised me there was a hearing on June
16 20, 2017, and at that time, Mr. Mendoza stated on the
17 record that he had received the apportionment letter, and
18 it was sitting in his office, and it would be given to Mr.
19 Emery by the close of business.

20 MR. EMERY: That was the - - that was the
21 request.

22 MR. MENDOZA: That's the request.

23 THE REFEREE: That's not the - - that's not the
24 letter?

25 MR. EMERY: That's not this document.

1 MR. MENDOZA: No, that was the request.
2 THE REFEREE: Did you receive the request?
3 MR. EMERY: I did.
4 THE REFEREE: Alright. So, we're square on
5 that then?
6 MR. MENDOZA: Yes.
7 THE REFEREE: Alright.
8 MR. MENDOZA: Yes.
9 THE REFEREE: So, the letter came in on the
10 third, or no, it was dated the third, and you got it last
11 week?
12 MR. CARPENTER: This past Friday, which would
13 have been the 14th.
14 THE REFEREE: Alright. Let me tell you
15 what - - what my read is, and I just don't think it's more
16 complex than that. I think the way I read this - - so you
17 know what you're working against - - there's really no
18 question that it is retroactive to the date - - reading
19 the prior order from 2016, there's no question that once
20 that's settled, it goes back to that date at least. And I
21 think it was even before that order, if I'm not mistaken.
22 It was 2015, the retroactive date that was preserved in
23 that order. But I don't think there's - - the only
24 question is, is it income, and I - - I can't imagine why
25 it's not. I mean, you received that - - that money,

1 right?

2 MR. CARPENTER: Yes, sir.

3 THE REFEREE: And you - - you didn't have to
4 pay any of it to Mom or any other third party, other than
5 your own good, right? That money was used by you for you?

6 MR. CARPENTER: To take - -

7 MR. MENDOZA: Yes.

8 THE REFEREE: For whatever.

9 MR. MENDOZA: Correct.

10 MR. CARPENTER: Yes.

11 THE REFEREE: Well, that's the end of the
12 story. It's income. I - - I don't know what - - we're
13 making this real - -

14 MR. MENDOZA: But his disability is not based
15 on - -

16 THE REFEREE: - - you know, cerebral argument.

17 MR. MENDOZA: - - his earning records. That's
18 your - - the - - the MCSF specifically states what is
19 based on his earning records, okay, that is income. His
20 disability is not based on his earning records, okay? He
21 is not - -

22 THE REFEREE: What is it based on?

23 MR. MENDOZA: It's based on his disability, and
24 that portion is not income, and that's what we were hoping
25 to get more clearly from the VA, and it - -

1 THE REFEREE: Okay.

2 MR. MENDOZA: - - it hasn't come, because Mr.

3 Emery has to apply for - - the mother has to apply for her

4 children.

5 THE REFEREE: Well, but she - - if she applies

6 and gets apportionment, she's not getting that money.

7 It's a legal - - it's just an illusory legal argument,

8 because - -

9 MR. MENDOZA: No, all we wanted to know - -

10 THE REFEREE: - - same - -

11 MR. MENDOZA: All we wanted to know, Mr.

12 Schlossberg, is what was she entitled to, not based - -

13 not just putting the whole \$3,000 in, and saying, "Based

14 on child support calculations, this is what - - what she's

15 entitled to." That's incorrect.

16 THE REFEREE: Alright. And then, will she get

17 that money then?

18 MR. MENDOZA: She would.

19 THE REFEREE: Backwards?

20 MR. MENDOZA: She - -

21 THE REFEREE: From who? From - - where does

22 she get the money? From Dad, because he got it all,

23 right?

24 MR. MENDOZA: Right.

25 THE REFEREE: So, you're saying - - alright,

1 you're saying that the - - that the government can tell
2 what portion of that income can be utilized for child
3 support?

4 MR. MENDOZA: Yes.

5 THE REFEREE: And on what authority, because I
6 don't see it? I don't see the authority that you are
7 deriving that conclusion.

8 MR. MENDOZA: They're the VA. They - -
9 they're - -

10 THE REFEREE: They might be the VA but - - but
11 we - -

12 MR. MENDOZA: Their - - their apportionment - -

13 THE REFEREE: They can't - -

14 MR. MENDOZA: - - is based on their federal
15 statutes.

16 THE REFEREE: Boy, I'm sure - - I'm not seeing
17 that at all.

18 MR. MENDOZA: They don't do that off the cuff.

19 THE REFEREE: But they can't tell another
20 federal agency what - - they can't determine for us what
21 we consider income. I mean - -

22 MR. MENDOZA: Yes, they can.

23 THE REFEREE: I mean, the federal government
24 can tell somebody as a tax payer what's income - - what's
25 income - - listen.

1 MR. CARPENTER: I've got to stand up.

2 MR. MENDOZA: He's in - - he's in a lot of

3 pain, Mr. Schlossberg, so he's standing up.

4 THE REFEREE: Stand up, absolutely. But the

5 federal government can tell and dictate what's - - what is

6 income for tax purposes. It has no influence on us at

7 all.

8 MR. MENDOZA: And for child support purposes.

9 THE REFEREE: And if they - - for child support

10 purposes - -

11 MR. MENDOZA: Your own guidelines state it.

12 THE REFEREE: And this is the same thing.

13 MR. MENDOZA: Your own guidelines state it.

14 What is based on a - - a service man's earnings record is

15 what's to be considered - - this is from your own - - it's

16 what's to be considered for child support. The

17 apportionment would have come back stating what is to be

18 considered as earned income.

19 THE REFEREE: Boy, that's not the way I read

20 it. I - - I mean, that's - -

21 MR. MENDOZA: That's what would - -

22 THE REFEREE: No, I get it. It's the best

23 reading for you and your client - -

24 MR. MENDOZA: That's what would have happened.

25 THE REFEREE: - - but I don't get it. I

1 don't - -

2 MR. MENDOZA: That's exactly what would have
3 happened.

4 THE REFEREE: Mr. Emery?

5 MR. EMERY: I don't see any authority - -
6 where's the authority?

7 THE REFEREE: I don't see it.

8 MR. MENDOZA: I see it.

9 MR. EMERY: If I may respond?

10 THE REFEREE: Unless I'm missing something - -
11 yeah.

12 MR. EMERY: I - - when we had our phone
13 conference last week, I, with a great deal of (inaudible),
14 told everyone that the VA would reject this request for
15 apportionment - -

16 THE REFEREE: Because you can't do it
17 retroactively.

18 MR. EMERY: - - because he doesn't have
19 standing to make that request. Apportionment is not the
20 only way that one determines how much a dependent should
21 receive in child support. The Rose case, which is
22 attached as Exhibit 2 - -

23 THE REFEREE: I saw it.

24 MR. EMERY: - - is absolutely clear that the
25 state has the right to determine the amount of child

1 support under the child support guidelines it enacts,
2 which are required by federal law, by the way. And that
3 determines the amount of support he pays regardless of the
4 source of income.

5 Secondly, just as you noted a second ago, how could
6 you possibly apportion what he's already received? Is he
7 going to pay back a portion of all that he's received so
8 far?

9 THE REFEREE: Well, I - - I think I clarified
10 he's not going to.

11 MR. MENDOZA: No, he is going to.

12 THE REFEREE: He - - who is he going to pay it
13 to?

14 MR. EMERY: He can't.

15 THE REFEREE: I mean, if we apportion it - -

16 MR. MENDOZA: Well - -

17 THE REFEREE: Yeah, I'm - - I'm with you.

18 MR. MENDOZA: Okay. If it's determined that he
19 was receiving X amount that should have been declared,
20 okay, you can have an arrearage based on the fact that it
21 was - - it was never disclosed.

22 THE REFEREE: I think that's the only reading.

23 MR. MENDOZA: Right. So, it's not - - with the
24 order will come in retroactivity. What we want to
25 determine is exactly what is to be apportioned.

1 THE REFEREE: Every penny he received.

2 MR. MENDOZA: That's - - and that's why - - you
3 see, that's this Court's determination, and they can have
4 that ruling without going through apportionment, because
5 they win without asking Veteran - - the VA for - - for
6 what she's entitled to.

7 THE REFEREE: Well, but no - - no apportionment
8 occurred. I - - I would have a different feeling if
9 apportionment had - - had he been sending \$2,000, \$1,500,
10 \$800 a month to Mom as a portion of the income, I'd have
11 to sit back and reconsider. He kept it all. It's a
12 no - - to me, it's a no-brainer. We just calculated
13 support on what he received. I don't know - - I don't
14 know, logically - -

15 MR. MENDOZA: Well, that's the same thing that
16 the Rose - - that's the same thing that the Rose - - I
17 understand now why the Rose Court came to that decision,
18 because if - - if Party A doesn't want to apply for
19 apportionment, then the Court ruled and doesn't need
20 to - - doesn't need to consider that, because an
21 apportionment decision never came down. That's the same
22 thing that - - that you're going to do in this court,
23 it - - it seems.

24 THE REFEREE: Well, why would - - an
25 apportionment would probably favor her.

1 MR. MENDOZA: It probably would - -
2 THE REFEREE: Because support - -
3 MR. MENDOZA: - - but we don't know.
4 THE REFEREE: Because support is going to be
5 only a portion of the apportioned amount. Whereas, if she
6 got an apportionment, she would have gotten the whole
7 amount. So, she takes a loss by doing it this way, by - -
8 by getting an arrearage. If - - if what I understand is
9 correct, had that been apportioned and actually given to
10 her, she would have gotten more than calculating support
11 on that amount.
12 MR. MENDOZA: I don't think so.
13 THE REFEREE: Well, it would have to be that,
14 because - - say she should get \$1,000. She gets \$1,000.
15 Now, we're only using that \$1,000 as to how much support
16 she should get against that. It won't be 1,000. It will
17 be a part of the 1,000. So, she would be better to have
18 apportionment. That's why your argument, to me, is
19 contorted logic.
20 MR. MENDOZA: No, I - - I - -
21 THE REFEREE: I don't follow it.
22 MR. MENDOZA: Our - - our position, and - - we
23 were hoping that we could get something in writing that
24 specified that she wasn't entitled to any of his dependent
25 benefits, disability.

1 THE REFEREE: Okay, but in fairness, you've had
2 ample time to do that.

3 MR. MENDOZA: We can't do it. We just got a
4 letter from the VA. We - - we can't do that. They need
5 to do that.

6 MR. EMERY: And so, why would we request
7 apportionment that means we don't get any of the money for
8 the two dependent children.

9 MR. MENDOZA: You don't know. You - - we - -

10 THE REFEREE: No.

11 MR. MENDOZA: We don't know.

12 THE REFEREE: Well, you understand the dilemma.
13 She's put in the position of asking for apportionment,
14 and - - and if you're correct, she doesn't get any money
15 from that. So, why - - so, the - - it's upside down. Why
16 would the - - the design be that way?

17 MR. MENDOZA: Well, that's why - - that's why
18 in Rose, they didn't consider the issue, because it seems
19 that the party never applied for it because they didn't
20 want to know.

21 THE REFEREE: Alright. So, she never applied
22 for it, so - -

23 MR. MENDOZA: Once the - -

24 THE REFEREE: - - here we are. So, it's very
25 simple. We're going to calculate support based on all the

1 income that he got, because he got it. I think that's - -
2 there's no other remedy that makes sense, and it's fair.

3 MR. MENDOZA: And we can appeal it.

4 THE REFEREE: I think that's where you're going
5 to be.

6 MR. MENDOZA: That's fine.

7 THE REFEREE: Yeah, I think that's where you're
8 going to be.

9 MR. MENDOZA: And the same thing with this
10 brief. I never got a copy of it. I never had a chance
11 to - - to rebut - -

12 MR. EMERY: I just offered it this morning to
13 both of you.

14 MR. MENDOZA: So, I never had a chance - - if
15 you want to hear - - read my brief, and then make your
16 decision - -

17 THE REFEREE: I would like to.

18 MR. MENDOZA: - - I would be more comfortable
19 with that.

20 THE REFEREE: I would like - - I would like - -

21 MR. MENDOZA: I would be more comfortable with
22 that.

23 THE REFEREE: I would absolutely like to do
24 that. I really would. I want as much information as I
25 can get.

1 MR. MENDOZA: Absolutely.

2 THE REFEREE: But I - - I don't - - I think
3 you're really uphill on this.

4 MR. MENDOZA: And that's - - that's fine, Mr.
5 Schlossberg. I - - I don't want to waste anybody's time.
6 I want to go through the process. And at the end of the
7 day, if that's where we stand, then that's where we stand.

8 MR. EMERY: For the record, I would like to
9 have introduced, as part of this record for your decision
10 making, the May 16th, 2017 Request for Apportionment made
11 by Mr. Carpenter through Mr. Mendoza, because I think
12 that's very telling.

13 THE REFEREE: I think that's - - especially, if
14 you're going to appeal, we need to have that as part of
15 the record. I think so.

16 MR. MENDOZA: That's fine.

17 MR. EMERY: Now, I didn't - - the only
18 attachments - - I didn't attach all the opinions from - -
19 from the previous years.

20 THE REFEREE: We'll call that - -

21 MR. EMERY: And let me - - let me point out
22 one further point here that we're forgetting.

23 MR. MENDOZA: Larry, do you want to submit
24 the - - the letter - -

25 MR. EMERY: I've got it right here.

1 MR. MENDOZA: No, but the letter that - - the
2 decision that we got, too?

3 MR. EMERY: Oh, yes. Yes. Yeah, if you've
4 got an extra copy.

5 MR. MENDOZA: That's an extra one, an extra
6 copy.

7 MR. EMERY: So, I'd offer these as exhibits.
8 I don't know which number we're on.

9 THE REFEREE: We'll call it A.

10 MR. MENDOZA: Mr. Schlossberg, can - - can Mr.
11 Carpenter go to the bathroom for a second?

12 THE REFEREE: Oh, absolutely. Yeah,
13 absolutely, any time he's uncomfortable. Sure, go ahead.
14 Take your time. Should we go off the record, then, while
15 he's gone?

16 MR. MENDOZA: Yes.

17 THE REFEREE: Yeah, let's go off the record.

18 (Off the record - 8:57 a.m.)

19 (On the record - 8:58 a.m.)

20 THE REFEREE: (Inaudible) a minute for this
21 housekeeping matter? Yep.

22 MR. MENDOZA: Sure.

23 MR. EMERY: This may have been 2. I don't
24 know. It is the - - what Mr. Mendoza offered back in
25 December when you required that he present evidence about

Respondent's Appendix G - Trial Transcript 7-17-2017
pp 22-23

1 THE REFEREE: Go ahead, Mr. Emery.

2 MR. EMERY: Thank you.

3 DIRECT EXAMINATION

4 BY MR. EMERY:

5 Q Mr. Carpenter, what is the current amount of the Veteran's
6 Disability benefit that you receive on a monthly basis?

7 A Roughly 3,300.

8 Q Okay. And when did you start receiving that amount?

9 A The 3,300 amount?

10 Q Yes.

11 A March of last year.

12 Q March of 2016?

13 A Yes.

14 Q Okay. Prior to that, you had also received disability
15 benefits, is that correct?

16 A Yes.

17 Q And they were of varying amounts over the years since you
18 applied?

19 A Um . . . they were roughly around 1,700.

20 Q Okay. When did you first apply for disability benefits?

21 A 2012.

22 Q Two thousand what?

23 A 2012.

24 Q 2012? When did you first get notification that you had
25 been granted those benefits?

1 A 2014.

2 Q It took two years?

3 A Yes.

4 Q And in the meantime, did you receive any benefits - -
5 right now, you're totally disabled under the veteran's
6 criteria, is that correct?

7 A That's correct.

8 THE REFEREE: Can I just ask a quick question?
9 When you received benefits in 2014, was it retro to your
10 application date?

11 THE WITNESS: Not all of it.

12 THE REFEREE: Some of it was?

13 THE WITNESS: Yeah.

14 THE REFEREE: Do you know - - how much retro
15 did you get, do you know?

16 MR. MENDOZA: That's on the sheet.

17 THE REFEREE: Oh, that's on the sheet?

18 MR. EMERY: Well, it's not all on it, but
19 we'll get to that.

20 MR. MENDOZA: It is on the sheet.

21 THE REFEREE: Okay, go ahead.

22 BY MR. EMERY:

23 Q You just answered the hearing officer with his question.
24 On Exhibit 1, which is the information from the General
25 Counsel's Office in the VA, Mr. Carpenter, it shows that

Respondent's Appendix H - Trial Exhibit 4, Trial Transcript
p 31



U.S. Department of Veterans Affairs
Office of General Counsel
Office of Chief Counsel - Midwest District East

477 Michigan Avenue
Room 1460
Detroit, Michigan 48226
www.va.gov/ogc

April 20, 2017

Lawrence J. Emery
924 Centennial Way, Suite 470
Lansing, Michigan 48917

Re: Dax Carpenter v. Julie Carpenter
Case No. 08-929-DM
56th Judicial Circuit Court

Dear Mr. Emery:

Per conversations with our office on April 20, 2017, you were advised pursuant to the provisions of 5 USC 552a (The Privacy Act), 38 USC 5701 (The VA Confidentiality Statute) and 38 USC 7332 VA records can only be released with the express written consent of the veteran or based upon an Order for Production of Documents that complies with these statutes. However, you informed our office that you are seeking the amount of benefits that Mr. Dax Carpenter has received since 2013. 38 USC 5701(c)(1) states, "The amount of any payment made by the Secretary to any person receiving benefits under a program administered by the Secretary shall be made known to any person who applies for such information."

Attached you find the total amount VA Compensation and Pension (C & P) benefits paid to Dax Carpenter since 2013.

If you there are any questions I can be contacted at (313) 471- 3696.

Sincerely,

Fallon B. Booth, Staff Attorney
Office of General Counsel
Midwest District- East

Ex 4

Monthly Payments Received since 11/01/2013. Total C&P Payments \$131,494.77

| | | | |
|--------------------------|-------------------|-------------|------------|
| <input type="checkbox"/> | Regular | \$1,347.39 | 05/01/2014 |
| <input type="checkbox"/> | CH33-EFT | \$979.20 | 05/01/2014 |
| <input type="checkbox"/> | Regular | \$1,347.39 | 04/01/2014 |
| <input type="checkbox"/> | CH33-EFT | \$979.20 | 04/01/2014 |
| <input type="checkbox"/> | Regular | \$1,347.39 | 02/28/2014 |
| <input type="checkbox"/> | CH33-EFT | \$979.20 | 02/28/2014 |
| <input type="checkbox"/> | Regular | \$1,347.39 | 01/31/2014 |
| <input type="checkbox"/> | CH33-EFT | \$587.52 | 01/31/2014 |
| <input type="checkbox"/> | CH33-EFT | \$300.00 | 01/07/2014 |
| <input type="checkbox"/> | 33-SC-E | \$1,026.40 | 01/07/2014 |
| <input type="checkbox"/> | Regular | \$1,349.54 | 12/31/2013 |
| <input type="checkbox"/> | CH33-EFT | \$522.24 | 12/31/2013 |
| <input type="checkbox"/> | Regular | \$1,327.00 | 11/29/2013 |
| <input type="checkbox"/> | CH33-EFT | \$979.20 | 11/29/2013 |
| <input type="checkbox"/> | CH33-EFT | \$979.20 | 11/01/2013 |
| <input type="checkbox"/> | Retroactive - C&P | \$17,211.00 | 11/01/2013 |

| | | |
|----------|------------|------------|
| CH33-EFT | \$273.28 | 09/02/2014 |
| CH33-EFT | \$102.48 | 08/29/2014 |
| Regular | \$1,347.39 | 08/29/2014 |
| 33-SC-E | \$230.40 | 08/27/2014 |
| CH33-EFT | \$100.00 | 08/27/2014 |
| CH33-EFT | \$100.00 | 08/13/2014 |
| 33-SC-E | \$210.40 | 08/13/2014 |
| 33-SC-E | \$759.20 | 08/12/2014 |
| CH33-EFT | \$233.33 | 08/12/2014 |
| CH33-EFT | \$979.20 | 08/01/2014 |
| Regular | \$1,347.39 | 08/01/2014 |
| CH33-EFT | \$816.00 | 07/01/2014 |
| Regular | \$1,347.39 | 07/01/2014 |
| CH33-EFT | \$391.68 | 05/30/2014 |
| Regular | \$1,347.39 | 05/30/2014 |
| 33-SC-E | \$631.20 | 05/29/2014 |

| | | |
|----------|------------|------------|
| CH33-EFT | \$649.04 | 01/30/2015 |
| Regular | \$1,371.09 | 01/30/2015 |
| 33-SC-E | \$1,233.60 | 01/02/2015 |
| CH33-EFT | \$233.33 | 01/02/2015 |
| CH33-EFT | \$512.40 | 12/31/2014 |
| Regular | \$1,371.09 | 12/31/2014 |
| CH33-EFT | \$1,024.80 | 12/01/2014 |
| Regular | \$1,347.39 | 12/01/2014 |
| CH33-EFT | \$1,024.80 | 10/31/2014 |
| Regular | \$1,347.39 | 10/31/2014 |
| CH33-EFT | \$133.34 | 10/17/2014 |
| CH33-EFT | \$88.62 | 10/17/2014 |
| 33-SC-E | \$348.80 | 10/17/2014 |
| CH33-EFT | \$922.32 | 10/06/2014 |
| CH33-EFT | \$81.98 | 10/01/2014 |
| Regular | \$1,347.39 | 10/01/2014 |

| | | |
|------------------|-------------|------------|
| Retroactive - Ct | \$14,230.97 | 08/19/2015 |
| CH33-EFT | \$1,024.80 | 07/31/2015 |
| Regular | \$1,698.71 | 07/31/2015 |
| CH33-EFT | \$888.16 | 07/01/2015 |
| Regular | \$1,698.71 | 07/01/2015 |
| CH33-EFT | \$375.76 | 06/01/2015 |
| Regular | \$1,698.71 | 06/01/2015 |
| 33-SC-E | \$327.20 | 05/28/2015 |
| 33-SC-E | \$914.40 | 05/12/2015 |
| CH33-EFT | \$1,024.80 | 05/01/2015 |
| Retroactive - Ct | \$3,899.17 | 05/01/2015 |
| Regular | \$1,371.09 | 05/01/2015 |
| CH33-EFT | \$1,024.80 | 04/01/2015 |
| Regular | \$1,371.09 | 04/01/2015 |
| CH33-EFT | \$1,024.80 | 02/27/2015 |
| Regular | \$1,371.09 | 02/27/2015 |

| | | |
|------------------|------------|------------|
| Retroactive - Ct | \$1,929.53 | 02/10/2016 |
| CH33-EFT | \$457.53 | 02/01/2016 |
| Regular | \$3,429.16 | 02/01/2016 |
| CH33-EFT | \$533.28 | 12/31/2015 |
| CH33-EFT | \$300.00 | 12/31/2015 |
| Regular | \$3,429.16 | 12/31/2015 |
| CH33-EFT | \$888.80 | 12/01/2015 |
| Regular | \$3,429.16 | 12/01/2015 |
| CH33-EFT | \$888.80 | 10/30/2015 |
| Regular | \$3,429.16 | 10/30/2015 |
| 33-SC-E | \$4,728.00 | 10/27/2015 |
| Regular | \$3,429.16 | 10/01/2015 |
| CH33-EFT | \$888.80 | 09/28/2015 |
| CH33-EFT | \$68.69 | 09/01/2015 |
| Regular | \$3,429.16 | 09/01/2015 |
| CH33-EFT | \$500.00 | 08/20/2015 |

| | | |
|----------|------------|------------|
| Regular | \$3,429.16 | 04/01/2016 |
| Regular | \$3,429.16 | 03/01/2016 |
| CH33-EFT | \$753.80 | 02/26/2016 |
| 33-SC-E | \$3,835.20 | 02/26/2016 |

| | | |
|----------------|------------|------------|
| Retro/One Time | \$972.90 | 11/16/2016 |
| Regular | \$3,429.16 | 11/01/2016 |
| Retro/One Time | \$571.05 | 10/26/2016 |
| Regular | \$3,429.16 | 09/30/2016 |
| Regular | \$3,429.16 | 09/01/2016 |
| Regular | \$3,429.16 | 08/01/2016 |
| CH33-EFT | \$584.64 | 07/01/2016 |
| Regular | \$3,429.16 | 07/01/2016 |
| CH33-EFT | \$167.40 | 06/06/2016 |
| CH33-EFT | \$72.39 | 06/01/2016 |
| Regular | \$3,429.16 | 06/01/2016 |
| 33-SC-E | \$954.80 | 05/11/2016 |
| 33-SC-E | \$954.80 | 05/11/2016 |
| CH33-EFT | \$753.80 | 04/29/2016 |
| Regular | \$3,429.16 | 04/29/2016 |
| CH33-EFT | \$753.80 | 04/01/2016 |

| | | |
|----------------|------------|------------|
| Regular | \$3,358.68 | 03/31/2017 |
| Retro/One Time | \$64.80 | 03/22/2017 |
| Retro/One Time | \$1,460.00 | 03/22/2017 |
| Retro/One Time | \$471.53 | 03/22/2017 |
| Regular | \$3,385.60 | 03/01/2017 |
| Retro/One Time | \$1,415.67 | 02/28/2017 |
| Regular | \$3,439.44 | 02/01/2017 |
| Retro/One Time | \$884.02 | 01/25/2017 |
| Regular | \$3,439.44 | 12/30/2016 |
| Retro/One Time | \$803.70 | 12/14/2016 |
| Regular | \$3,429.16 | 12/01/2016 |

1 Q In fact, our exhibit from the General Counsel's Office,
2 the other document you have, shows that you were receiving
3 benefits from the Veteran's Administration at the very
4 time that you were asking the Court to reduce your
5 support, correct?

6 A I don't believe - - no. I believe the hearing was before
7 I had been given that. I'm not quite sure on the hearing
8 date of the 2013 case, but . . .

9 Q Well, I have your signature on the order that was entered
10 in January, 2014, signed by you, Dax E. Carpenter,
11 11/5/2013. That would have been after you received this
12 retroactive payment of \$17,000, correct?

13 A If the dates are correct.

14 Q So, when you got \$17,000 in retroactive veteran's
15 disability benefits, did you know that that was based, in
16 part, on the fact that you had dependent children?

17 A Sorry, repeat the question.

18 Q Would the amount that you were receiving from the VA be
19 dependent on whether or not you had dependent children?

20 A At the time, I did not know that, because it was not
21 explained to me how VA benefits worked.

22 Q When you applied for veteran's benefits, did you list your
23 sons, Christopher and Nicholas, as dependents?

24 A Well, according to - -

25 Q If you remember. If you don't remember - -

Respondent's Appendix I - Trial Transcript 7-17-2017 p 30

1 THE REFEREE: Is it this right here?

2 MR. EMERY: Yes. No.

3 THE REFEREE: No?

4 MR. EMERY: This one right here. Mr.

5 Mendoza?

6 MR. MENDOZA: Yes.

7 BY MR. EMERY:

8 Q Do you remember presenting that to the Referee at one of

9 the show cause hearings?

10 A This should have been the January, 2017 show cause.

11 Q What does that document show, Mr. Carpenter?

12 A What this is showing is the amount of VA benefit that's

13 being paid.

14 Q They were veteran's disability benefits, correct?

15 A Correct.

16 Q Is that the first time that you advised anyone at the

17 Friend of the Court that you were receiving veteran's

18 disability benefits, and the first time - - well, I'll let

19 you answer that question first.

20 A What was the question?

21 Q Was that the first time - - is that document the first

22 time that you ever advised the Eaton County Friend of the

23 Court that you were receiving disability benefits from the

24 Veteran's Administration?

25 A Yeah.

Respondent's Appendix J - Trial Transcript 7-17-2017
pp 32, 36-37

1 A No, according to what your document is saying here, I have
2 listed as dependents my wife, Jennifer Carpenter, stepson,
3 Austin, stepson, Ethan, my son, Christopher, and my son,
4 Nicholas. That's five dependents.

5 Q Okay. And you knew - - and you did that for the VA,
6 correct?

7 A Correct, because they asked how many people . . .

8 Q Okay, and you knew that your benefits varied based on
9 whether or not you had dependents or not, correct?

10 A No, I did not at the time.

11 Q You received a check, a retroactive lump sum check of
12 \$17,000. What did you do with it, Mr. Carpenter? Do you
13 remember?

14 A No, I don't.

15 Q Is that money still available to be paid as part of your
16 retroactive support?

17 A Not currently.

18 Q What's that?

19 A Not currently.

20 Q You're aware that you must advise the Court, the Friend of
21 the Court of any changes in your income, aren't you?

22 A Yes.

23 Q Had you received the \$17,000 check when you signed this
24 order reducing your support to \$166?

25 A No.

1 We're not asking what he bought with it.

2 MR. MENDOZA: He just asked what - - what he
3 had - - was it still available? He said no.

4 MR. EMERY: The \$17,000 isn't available.

5 THE REFEREE: So, the question is, you thought
6 you could use the money for - - was that the question?
7 For whatever you wanted to buy?

8 MR. EMERY: You don't think - - you - - you
9 thought it was income for purposes of you paying your
10 expenses, but you didn't think it was income for purposes
11 of supporting your children?

12 MR. MENDOZA: Objection, relevance.

13 MR. EMERY: It's absolutely relevant. The
14 question is whether or not - -

15 MR. MENDOZA: It doesn't matter what he's done
16 with the money - -

17 MR. EMERY: - - there's misrepresentation or
18 fraud.

19 MR. MENDOZA: - - or what he thought the money
20 was - - was used for.

21 THE REFEREE: I think it's a fair question.
22 Again, he's not asking what he did with it, but you
23 thought that - - it's income for you, but not for
24 supporting your children? I think that's a fair question.

25 THE WITNESS: Income to support the entire

1 family, not just myself, and it's listed on - - I don't
2 know which exhibit he's calling this, but as you can see,
3 there's more than just my kids on here listed as
4 dependents.

5 BY MR. EMERY:

6 Q How did your children get a part of the pie that you were
7 receiving from the veteran's benefits if you weren't
8 paying support based on that amount? There is no way, is
9 there, Mr. Carpenter?

10 A I understand where you're going with the question, so - -
11 it seems more like you're trying to lead me into something
12 that's not something (inaudible) through here.

13 THE REFEREE: Well - -

14 THE WITNESS: No. Your Honor, I understand
15 what he's trying to say. He's trying to lead me into a
16 certain answer that is completely irrelevant to what he's
17 asking.

18 THE REFEREE: Well, let me say this. I mean, I
19 think what he's asking you is reasonable. Did the money,
20 in any way, filter to the support of your children?

21 THE WITNESS: Yeah, it did.

22 THE REFEREE: In any other way? I think that's
23 what the question was.

24 THE WITNESS: Yeah.

25 THE REFEREE: In what way is that?

Respondent's Appendix K - Trial Transcript 7-17-2017
pp 33-35, 85-86

1 Q How long after that did you receive it?

2 A I'm not quite sure.

3 Q Shortly though, correct?

4 A I guess within a six-month period.

5 Q And once you received that check, you didn't tell anybody
6 anything, correct?

7 A No.

8 MR. EMERY: You didn't think you had to tell
9 anybody about your veteran's disability benefits?

10 MR. MENDOZA: Objection. These are
11 conversations, again, three and a half years ago.

12 THE REFEREE: Well, I didn't hear an answer. I
13 mean, I didn't hear him say he couldn't remember, I don't
14 think.

15 THE WITNESS: No, I can't. I mean, we're
16 talking - - I mean, we're talking three and a half, four
17 years ago, sir.

18 BY MR. EMERY:

19 Q Do you think you should be required to pay child support
20 according to the Michigan Child Support Guidelines?

21 A I do, based off of what income is, not benefits. When it
22 specifically states that VA benefits are not taxable and
23 not an income. Those are to assist people with
24 disabilities that are deemed necessary by the VA, as I'm
25 sure you're aware, because you also receive VA

1 compensation.

2 Q Who gave you that legal advice?

3 A I got that from the VA.

4 Q The VA told you that your disability benefits were not
5 subject to income tax, correct?

6 A Correct.

7 Q And that's true, isn't it? You don't pay income tax on
8 it?

9 A No, I don't.

10 Q The VA told you that that was not income? Is that what
11 you're saying?

12 A That's correct.

13 Q Well, what would they - - for income tax purposes,
14 correct?

15 A For income, period. It is not to be - -

16 Q Well, what would it be for? What else? What else did
17 they say it wasn't income for?

18 A Anything.

19 Q Anything?

20 A No.

21 MR. EMERY: So, you thought it logical in
22 your mind that you would be receiving - - I don't know how
23 much a month you were receiving back in 2013, but probably
24 three times what you reported to the Friend of the Court.
25 It was alright for you to receive that tax free money, but

1 not pay any apportion of it to your support of your
2 children, correct?

3 MR. MENDOZA: Objection, asked and answered.

4 THE REFEREE: I'm not sure I heard that - -

5 MR. MENDOZA: He said no.

6 THE REFEREE: - - answer to the question.

7 MR. MENDOZA: He said no.

8 THE WITNESS: I said no to that earlier.

9 BY MR. EMERY:

10 Q You said no to what? I asked you a question - -

11 A It's - -

12 Q Go ahead.

13 A You're asking based off income. VA - - VA comp
14 (inaudible), or VA disability, as it's known in the common
15 world, is not income. It's never been income.

16 Q It's not income for tax purposes?

17 A It's not income, period.

18 MR. EMERY: It's not income for any other
19 purpose. You get to use it, don't you, like you do any
20 other income, to pay your bills, pay your expenses?

21 MR. MENDOZA: Objection, relevance.

22 THE REFEREE: Well, it - -

23 MR. MENDOZA: What he does with the money?

24 THE REFEREE: Well, he didn't ask what he does.

25 He - - I just want to make sure. He did use the money?

1 THE REFEREE: But when asked how you'd pay
2 arrears - -

3 THE WITNESS: Through my job. My job.

4 THE REFEREE: The rules are, we try to get as
5 much as we can for arrears. And so, the question is,
6 would you consider using some of your disability money? I
7 think that's a fair question.

8 THE WITNESS: No.

9 THE REFEREE: You don't have to. I'm just
10 saying - -

11 THE WITNESS: No.

12 THE REFEREE: - - would you?

13 THE WITNESS: No.

14 BY MR. EMERY:

15 Q Mr. Carpenter, who told you that veteran's disability
16 benefits are not income for purposes of child support?

17 A The VA.

18 Q The VA told you that?

19 A Correct.

20 Q Can you show me the communication they sent you saying
21 that?

22 A I don't have anything, paper-wise. This was a phone
23 conversation that I had with the VARO. It's the Veteran's
24 Affairs Regional Office down in Saint Louis.

25 MR. EMERY: Has your attorney indicated to

1 you that veteran's benefits are not income for purposes of
2 child support?

3 MR. MENDOZA: Objection. That's privileged
4 communication.

5 THE REFEREE: That's true.

6 MR. EMERY: I don't know how privileged it
7 is.

8 MR. MENDOZA: It is.

9 THE REFEREE: Although - - although, I guess,
10 if your question is, why aren't you paying, he could - -
11 if he wants, he could offer up that he received legal
12 advice not to do that.

13 MR. MENDOZA: He answered the question.
14 Objection, asked and answered.

15 BY MR. EMERY:

16 Q Well, somebody - - well, okay, then we'll ask the next
17 question. Somebody told you that you are not required to
18 pay - - other than Veteran's Administration RO, as you
19 described them, has someone told you that you don't have
20 to pay child support based on the benefits you're
21 receiving through the Veteran's Administration?

22 A The VA told me that.

23 Q Anybody else?

24 A No.

25 Q Have you read the Michigan child support guidelines?

Respondent's Appendix L, Trial Transcript 7-17-2017 p 67

1 MR. EMERY: And your family obligations,
2 apparently, don't include the two minor children you have
3 from the marriage that's under consideration here,
4 correct?

5 MR. MENDOZA: Objection, asked and answered.

6 THE REFEREE: He did - - he did respond to
7 that.

8 MR. MENDOZA: He did respond to that.

9 THE REFEREE: Let me just ask one quick
10 question in - - in this - - you said - - kind of
11 cryptically, you said that the money is not currently
12 available. Is it in some investment?

13 THE WITNESS: No.

14 THE REFEREE: Annuity?

15 THE WITNESS: No, sir.

16 THE REFEREE: It's spent?

17 THE WITNESS: It's spent.

18 THE REFEREE: The 131,000, it's spent?

19 THE WITNESS: I mean, what, you're talking - -
20 if I'm looking at this right, we're talking over a four
21 year span.

22 THE REFEREE: I just want to make sure it's not
23 invested or something.

24 THE WITNESS: No, it's not invested.

25 THE REFEREE: Okay.

Respondent's Appendix M - Proposed Referee Order

State of Michigan

In the Family Court for the County of Eaton

Dax E. Carpenter,

Plaintiff,

v

Julie E. Carpenter,

Defendant.

**Proposed Referee's Order and Notice of
Submission of Order Pursuant to
MCR 3.215(E)**

**Case No.: 08-929-DM
Hon. John D. Maurer**

Joel Mendoza (P69557)

Attorney for Plaintiff

7201 W. Saginaw Highway, 302
Lansing, Michigan 48908

Lawrence Emery (P23263)

Attorney for Defendant

924 Centennial Way, Suite 470
Lansing, Michigan 48917

**At a session of said Court
held on the 20 day of
September, 2017**

Present: John D. Maurer, Circuit Court Judge

History of the Matter

On numerous occasions, the Friend of the Court scheduled Show Cause Hearings to enforce the court's child support orders regarding this matter. Plaintiff father, on numerous occasions, did not disclose his disability income as a source of income to the Friend of the Court. Ultimately, when confronted by Counsel for Defendant at one of the Show Cause Hearings, Plaintiff father finally acknowledged he

has been receiving disability income. When questioned by the Referee as to why Plaintiff father failed to disclose the disability income to the Friend of the Court, Plaintiff father stated he was advised by Child Support Enforcement Worker Luci Sharp that disability income was not considered income by the Friend of the Court. Child Support Caseworker Luci Sharp testified before the Referee that she does not recall ever making that statement to Plaintiff father.

After discussing the matter with the parties, the Referee believes the matter had been resolved. The Referee believed that the parties would recalculate Plaintiff father's child support obligation, incorporating his disability income for purposes of utilizing the Michigan Child Support Guidelines.

Thereafter, it became evident that Plaintiff father was still claiming, in some fashion, that his disability income should not be included in his income for purposes of calculating his child support obligation.

Ultimately, the Referee and the parties agreed that each party would draft a brief with the facts and law that supported their respective positions, and the Referee would issue an opinion regarding the matter.

Plaintiff father filed his brief on July 31, 2017. Pursuant to the agreement of the parties, Defendant mother would have seven additional days to file a Response Brief.

On August 7, 2017, Counsel for Defendant mother filed his Response Brief, with the Referee's opinion to be submitted within 21 days, or by August 28, 2017.

Discussion and Analysis

The issue involved in this case is simply whether or not veterans' benefits are

considered income for the purposes of the application and utilization of the Michigan Child Support Formula. Plaintiff father claimed that veteran's benefits are not considered income for the purposes of the Michigan Child Support Formula.

Defendant mother claimed that veteran's benefits are considered income for the purposes of the utilization and application of the Michigan Child Support Formula.

The Referee finds that the answer is quite simple. Veteran's benefits are considered income for the purposes of the utilization and application of the Michigan Child Support Formula.

The Michigan Child Support Formula Manual (2017 MCSF) directs that income shall be defined and determined in Chapter 2 of the manual as follows:

2.01(A) The term "net income" means all income minus the deductions and adjustments permitted by this manual. A parent's "net income" used to calculate support will not be the same as that person's take home pay, net taxable income, or similar terms that describe income for other purposes.

2.01(B) The objective of determining net income is to establish, as accurately as possible, how much money a parent should have available for support. All relevant aspects of a parent's financial status are open for consideration when determining support.

2.01(C) Income includes, but is not limited to, the following:

(1) Wages, overtime pay, commissions, bonuses, or other monies from all employers or as a result of any employment (usually, as reported in the Medicare, wages, and tips section of the parent's W-2).

(2) Earnings generated from a business, partnership, contract, self-employment, or other similar arrangement, or from rentals. §2.01(E). (a) Income (or losses) from a corporation should be carefully examined to determine the extent to which they were historically passed on to the parent or used merely as a tax strategy.

(3) Distributed profits or payments from profit-sharing, a pension or retirement, an insurance contract, an annuity, trust fund, deferred

compensation, retirement account, social security, unemployment compensation, supplemental unemployment benefits, disability insurance or benefits, or worker's compensation.

(a) Consider insurance or other similar payments received as compensation for lost earnings, but do not count payments that compensate for actual medical bills or for property loss or damage. 2017 Michigan Child Support Formula Manual—Chapter 2: Determining Income Page 6 State Court Administrative Office

(b) If retired parent receives payments from an IRA, defined contribution, or deferred compensation plan, income does not include contributions to that account that were previously considered as the parent's income used to calculate an earlier child support obligation for a child in this case.

(4) Military specialty pay, allowance for quarters and rations, housing, veterans' administration benefits, G.I. benefits (other than education allotment), or drill pay. (emphasis added).

2017 MCSF(C)(4) clearly directs that Veterans Administration Benefits are to be utilized as income for the purposes of the Michigan Child Support Formula. Plaintiff father cryptically continues to argue that for some administrative purpose, the federal government has determined that Veterans Administration benefits potentially should be apportioned with the result that some or all of the benefit should not be utilized as income when calculating Plaintiff father's child support obligation to Defendant mother.

The Referee finds Plaintiff's argument inapplicable, unsupported, confusing, legally-contorted, and totally unpersuasive of the position Plaintiff father efforts to prove.

The Referee was led to believe that Plaintiff father was to produce the definitive statement of controlling law that would prevent the Eaton County Friend of the Court from utilizing Plaintiff father's Veterans Benefit as income for child support purposes. Despite that assurance, the Referee is left with Plaintiff father's apparent

position that he simply wants to retain the entirety of his veteran's benefit as his sole property, for the sole benefit of himself, as apparently he has done since May 12, 2013.

The Referee finds Plaintiff's argument is based on nothing more than a selfish, self-serving desire to avoid being responsible for and paying any meaningful child support to Defendant mother for the support of the parties' minor child.

Plaintiff has made a rather confusing claim, seemingly suggesting that the state of Michigan cannot enter an order in the absence of an apportionment ruling, made by the Secretary of the Department of Veterans Affairs. The Referee is not aware of any such apportionment ruling in this case, and moreover is not aware of any ruling that is contrary to the enforcement of a child support obligation based on and utilizing Plaintiff's Veteran's benefits. In fact, Plaintiff father presented a letter from the Veterans Administration, dated July 3, 2017, denying a request for apportionment.

Plaintiff father has failed to provide any persuasive argument that disability benefits are exempted from inclusion in Plaintiff's income for the purposes of calculation of his child support obligation.

The Referee believes the bulk of Plaintiff father's brief and the authority cited by Plaintiff father are inapplicable and irrelevant to this proceeding.

Counsel for Defendant claimed that evidence provided to the Referee supports that Plaintiff father willfully concealed over \$130,000 in income over a four-year period. The Referee concurs with that statement. Plaintiff provided neither a

reasonable nor excusable explanation for failing to disclose the receipt of that income.

Counsel for Defendant claimed that by signing the Uniform Child Support Order that reduced his income, Plaintiff father attested to the accuracy of the income information upon which that order was based. The Referee concurs with that claim.

Simply put, Plaintiff father has refused to provide an honest statement and disclosure of his income, but rather misrepresented and misled Plaintiff mother and the court about the true amount of his actual income. Plaintiff's claim that he received errant information from Friend of the Court staff was totally unpersuasive.

Plaintiff's credibility was hardly bolstered by his false statements made to the Referee as well as his curious and repeated use of the 5th Amendment to avoid honestly answering questions regarding his veteran's benefits during the Referee Hearing.

Moreover, the Referee finds that Plaintiff father failed to honestly disclose his income for a protracted period of time to the Friend of the Court, which induced and caused the Friend of the Court to rely on his assertions, resulting in an unreasonably inaccurate child support order. Accordingly, the Referee believes pursuant to MCL 552.603(b), Plaintiff father's child support obligation should be retroactively corrected.

Furthermore, based on Plaintiff father's false statements and conduct which has unreasonably protracted these proceedings, the Referee believes Plaintiff is subject to sanctions pursuant to MCR 2.114.

Order

Based on the foregoing, the Referee believes the entry of the following order is appropriate:

IT IS ORDERED:

1. The Veterans disability benefits received by Plaintiff father since May 12, 2013 are includable in his income for purposes of calculating Plaintiff father's child support obligation utilizing the Michigan Child Support Guidelines
2. The calculation of Plaintiff father's child support obligation shall be based on the Veterans disability income received by Plaintiff father retroactive to May 12, 2013. The Referee specifically finds that Plaintiff father intentionally misrepresented and intentionally failed, refused and/or neglected to disclose the true nature of his income since that date. Moreover, the Referee believes Plaintiff father conceded to retroactive application of the correct amount of his income for purposes of the calculation of his child support obligation.
3. The correspondence provided by the Veteran's Administration detailing the amount of Veterans disability benefits received by Plaintiff father shall be used to determine the actual total income received from May 12, 2013 to the present for purposes of calculating Plaintiff father's child support obligation, utilizing the Michigan Child Support Guidelines.
4. The Uniform Child Support Order entered by the court shall include a

determination of the appropriate amount of child support arrearages owed by Plaintiff father, and a schedule to repay the same.

5. To effect the award of sanctions against Plaintiff father pursuant to MCR 2.114, Counsel for Defendant mother shall prepare and submit a statement to Plaintiff and the Friend of the Court stating the amount of hours he has expended representing Defendant mother regarding this child support matter. The Referee shall then issue a separate proposed order regarding MCR 2.114 sanctions under the 21 day rule.
6. Except as specifically modified by this order, the terms and conditions of the prior orders of the court shall remain in full force and effect.


John D. Maurer, Circuit Judge

Drafted and Approved by:


Allen Schlossberg,
Eaton County Family Court Referee

Notice of Submission of Order for Entry

The Parties have twenty-one (21) days to file a written Objection to this Recommended Order with the Clerk of the Court, with a copy of the Objection served to the opposing Party and the Friend of the Court. If neither Party files an Objection with the Court, this Recommended Order shall remain as the Order of the Court pursuant to MCR 3.215(E).

Pursuant to MCR 3.215(E)(5), the party who requests a judicial hearing must draft and serve the Objection and a notice of hearing (after first obtaining a hearing date from the office of the judge assigned to the case) on the opposing party or counsel representing the opposing party in the manner provided in MCR 2.119(C), that provides such items must be served as follows: (a) at least 9 days before the time set for the hearing, if served by mail, or (b) at least 7 days before the time set for the hearing, if served by delivery under MCR 2.107(C)(1) or (2).

An objecting party must also order the transcripts of the Referee Hearing during the above referenced 21-day time limit. The transcripts of the Referee Hearing may be ordered by contacting Luci Sharp, (517) 543-7500, x1319. The objecting party will need to file a statement with the Objection and notice of hearing stating the date the objecting party actually ordered the transcripts of the Referee Hearing regarding the order that is being objected to.

The objecting party must also file a Proof of Service with the Clerk of the Court stating that a copy of the Objection, notice of hearing, and statement of ordering transcript has been served, and on what date, to the other party and the Friend of the Court.

Pursuant to MCR 3.215(E)(4), the objection must include a clear and concise statement of the specific findings or application of law to which an objection is made. Objections regarding the accuracy or completeness of the recommendation must state with specificity the inaccuracy or omission.

If an Objection is properly and timely filed by either party, the matter shall be heard before the Judge assigned to the case.

CERTIFICATE OF MAILING

I hereby certify that on this date I mailed a copy of the foregoing Referee's Order to the Parties at the addresses as stated above by U.S. mail.

August 29, 2017

Jenna Harris
Jenna Harris, Office Manager

Plaintiff father's Brief Due: 7/31/17

Defendant mother's Response Brief due: 8/7/17

Referee Order due: 8/28/17

Referee Order completed: 8/28/17

21-day Objection Due 09-19-17

**Respondent's Appendix N - Objection to Referee
Recommendation and Proposed Order**

| | | |
|--|--|--|
| STATE OF MICHIGAN 56 TH JUDICIAL CIRCUIT EATON COUNTY | OBJECTION TO THE FRIEND OF THE COURT REFEREE RECOMMENDATION AND NOTICE OF HEARING | CASE NO. 08-929-DM |
| Plaintiff's name, address and telephone no.: DAX E. CARPENTER | VS | JUDGE: John D. Maurer Defendant's name, address, and telephone no.: JULIE E. CARPENTER |
| Attorney: JOEL MENDOZA (P69557) | | Attorney: LAWRENCE EMERY (P23263) |

1. I object to the Eaton County Friend of the Court Recommendation dated August 29, 2017.
2. My reason(s) for the objection is/are: (be specific, and please attach separate sheet if necessary)
 1. FOC calculations are are inaccurate and incorrect as to the amounts received by Plaintiff-father.
 2. Referee made an incorrect analysis based off a very broad interpretation of 2.01(C)(4) and Plaintiff's VA Disability benefits that has been narrowed by 2.01(I) and the case law provided.
 3. I would like the Court Order to provide:
4. I ordered the transcript of the Referee hearing on September 18, 2017. I have attached the Statement of Ordering Transcript.

9/18/17

Date



Signature of Party, Plaintiff, Defendant

Objections can only be filed by a party to the action and must specifically identify the problems that you have with the Recommendation.

The party who filed the objection must file the original and three copies with the Clerk of the Court and serve the objection and notice of judicial hearing on the opposing party (or their attorney) within the time frames set forth in Michigan Court Rule 2.119(C)

NOTICE OF HEARING

TAKE NOTICE that your *de novo* hearing on the Objection to the Friend of the Court's Recommendation will be held on: _____ at _____ [] a.m. [] p.m. before Judge _____ at 1045 Independence Blvd., Charlotte, MI 48813

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this Objection and Notice of Hearing to the opposing party by ordinary mail addressed to their last known address.

Date: 9/18/17

Signature: 

Respondent's Appendix O - Amended Motion to Set Aside
Order

✓

STATE OF MICHIGAN
IN THE 56TH CIRCUIT COURT FOR THE COUNTY OF EATON
FAMILY DIVISION

DAX E. CARPENTER,

Plaintiff,

**AMENDED MOTION TO SET ASIDE
ORDER**

v.

Case No. 08-929-DM

JULIE E. CARPENTER, State of Michigan, County of Eaton, John D. Maurer
Defendant. **FILED**

Joel Mendoza (P69557)
Attorney for Plaintiff
7201 W. Saginaw Hwy, 302
Lansing, MI 48908
(517) 862-8023

NOV 20 2017

DIANA BOSWORTH
EATON COUNTY CLERK

Lawrence Emery (P23263)
Attorney for Defendant
924 Centennial Way, Ste 470
Lansing, MI 48917
(517) 337-4866

Motion to Set Aside Order

NOW COMES Plaintiff, Dax E. Carpenter, by and through his attorney, Joel Mendoza, and for his motion states as follows:

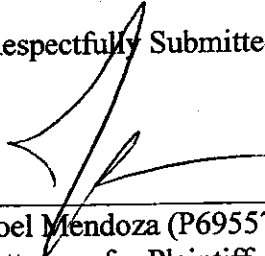
1. A proposed order was entered against Plaintiff in this action on September 20, 2017.
2. Entry of the order was presented to this Honorable court alleging that Plaintiff had failed to object to the proposed order within the time period provided by court rule.
3. Plaintiff, through his attorney, did properly object to the order on September 18, 2017 and filed it with the court on said date.
4. Plaintiff informed Friend of the Court (FOC), through Ms. Lucy Sharp that the Plaintiff's Objection was being filed and that a request for the courts transcript was being initiated.
5. FOC through Ms. Sharp, informed Plaintiff's attorney what the cost would be and Ms. Sharp was informed that payment would be made within 2 weeks.
6. Payment for the transcript was made on October 2, 2017.

7. The proposed judgment was presented to the court before payment for the transcript was completed, with knowledge that an objection had been filed.
8. Defendant will be prejudiced by this substantial defect in the proceeding, because he has not had the opportunity to be heard on his objection and proffer his defense, due to the improper presentment of the order.
9. It has come to Plaintiff's attention through the VA that the proffered order has been based on information that was illegally obtained by the Defense through the VA.
10. Manifest injustice will result if the order is not set aside.

WHEREFORE, for the aforementioned reasons, Plaintiff requests that this honorable court set aside the current order entered against him in this matter and allow Plaintiff to be heard on his objections.

Dated: November 20, 2017

Respectfully Submitted:



Joel Mendoza (P69557)
Attorney for Plaintiff
7201 W. Saginaw Hwy, Suite 302
Lansing, MI 48908
(517) 862-8023